

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:04-cr-214

v.

HON. JANET T. NEFF

LAMON DAVID SIMMONS,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Lamon David Simmons has filed a motion for modification or reduction of sentence (Dkt 53) pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

However, the defendant is ineligible for a reduction as a reduction of sentence is inconsistent with the policy statements. Defendant is currently sentenced to a mandatory statutory minimum sentence of 120 months. Since the sentence may not be lower than the statutory mandated minimum of 120 months, the guideline range remains 120 months, pursuant to U.S.S.G. § 5G1.1(c)(2), and therefore, no reduction is warranted.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 53) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: May 4, 2012

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge